

**MINUTES
REGULAR MEETING
UTILITY SERVICE BOARD
JANUARY 20, 2014**

The Regular Meeting of the Utility Service Board of the City of Jasper, Indiana, was held in the Council Chambers of City Hall in Jasper at 7:00 PM on Monday, January 20, 2014.

The meeting was called to order by Chairman Wayne Schuetter.

UPON CALL OF THE ROLL, THE FOLLOWING WERE PRESENT:

Wayne Schuetter – Chairman
Rick Stradtner – Vice Chairman
Doug Schulte – Secretary
Alex Emmons – Wastewater Commissioner
Ken Sendelweck – Electric Commissioner
Dave Hurst – Water Commissioner
Keith Masterson – Gas Commissioner

ALSO PRESENT:

Jerry Schitter – Electric Distribution Manager
Ernie Hinkle – Gas & Water Manager
Ed Hollinden – Wastewater Manager
Bud Hauersperger – General Manager
Renee Kabrick – City Attorney
Ashley Kiefer – Office Manager

PLEDGE OF ALLEGIANCE (DVD-00:36)

Chairman Wayne Schuetter led the Pledge of Allegiance.

REORGANIZATION OF THE UTILITY SERVICE BOARD FOR 2014 & APPOINT COMMISSIONERS & COMMITTEES FOR 2014 (DVD-00:58)

Chairman Wayne Schuetter stated that it is time for election of officers and he opened nominations.

Alex Emmons made a motion to nominate Wayne Schuetter for Chairman, Rick Stradtner for Vice Chairman, and Doug Schulte for Secretary.

He also nominated to keep himself as Wastewater Commissioner, Dave Hurst as Water Commissioner, Keith Masterson as Gas Commissioner, and Ken Sendelweck as Electric Commissioner.

Emmons also made a recommendation that Committee Assignments remain the same as 2013 based on the Commissioners.

Dave Hurst seconded the motion. Motion approved, 7-0.

Chairman Schuetter announced that a committee needs to be organized to review the fiber optic proposals. Chairman Schuetter asked the Executive Committee, made up of Secretary Schulte, Vice Chairman Stradtner, and himself, to review the proposals.

APPROVAL OF MINUTES (DVD-02:10)

Chairman Wayne Schuetter presented the minutes of the December 16, 2013 Regular Meeting, January 8, 2014 Joint Executive Session, January 10, 2014 Special Joint Meeting and the January 16, 2014 Joint Executive Session and there being no corrections or amendments, asked for a motion to approve the minutes. Doug Schulte made a motion to approve the minutes of the December and January meetings as presented. Keith Masterson seconded the motion. Motion approved, 7-0.

PETITION TO VACATE PORTION OF PUBLIC UTILITY & DRAINAGE EASEMENT IN ROLLING RIDGE ESTATES – PHIL BUEHLER FROM BROSMER LAND SURVEYING ON BEHALF OF PRAGUE PROPERTIES, LLC (DVD-09:10)

Phil Buehler with Brosmer Land Surveying, on behalf of Prague Properties, L.L.C., requested to vacate a portion of a public utility and drainage easement in the Rolling Ridge Estates. At this time the property is currently being utilized as a pasture, and is located east of Rolling Ridge Court and north of Indiana State Road 56, also being directly north of Precious Blood Church.

The part that is asked to be vacated is Lots fourteen through seventeen in the Rolling Ridge Estates. There is a twenty-five foot public utility and drainage easement on the east side of the lots which butts up against a ten foot public and drainage easement. They are asking to vacate only the twenty-five foot easement. Prague Properties is in the process of petitioning to vacate a portion of Rolling Ridge Estates, and are also in the process of re-platting portions of Lots thirteen through fifteen to accommodate some land owner issues.

There are no utilities in the public utility and drainage easement. Department Managers have no problems with the vacation.

Rick Stradtner made a motion to recommend to the Common Council the vacation of the twenty-five foot public utility and drainage easement in the Rolling Ridge Estates. Keith Masterson seconded the motion. Motion approved, 7-0.

LITIGATION – CONSIDERATION OF SETTLEMENT – BILL KAISER & CITY ATTORNEY RENEE KABRICK (DVD-10:53)

Bill Kaiser, with Bingham, Greenebaum, and Doll, addressed the Board regarding the consideration of the recent settlement offer submitted to the City by Healthy Dubois County, regarding the current litigation. Kaiser introduced Greg Neibarger, lead litigator on the current litigation.

Kaiser updated the Board regarding the background information surrounding the current litigation. Kaiser said,

“This evening you will have the opportunity to vote to approve or reject the settlement terms as they were presented to you at the executive session on Thursday, January 16, 2014. It seems appropriate to recall the history of this case in preparation to vote on this matter.

In August of 2011, Healthy Dubois County drew the City of Jasper into litigation for the purpose of halting the vote of the Jasper Common Council on the Lease of the Jasper power plant by Twisted Oak Corporation. However, based on the decision of the Trial Court Judge, HDC was immediately forced to withdraw that part of its lawsuit seeking to stop the vote. HDC went forward with allegations that the City violated Indiana’s Open Door Law during lease negotiations with Twisted Oak.

The City was successful at first trial. HDC did not produce ANY EVIDENCE of violation of the Open Door Law by the City of Jasper. Unfortunately, HDC made the decision to proceed with an appeal based on a procedural error that occurred during the first trial. And, HDC was successful on its appeal.

After the case was sent back to the trial court for a new trial, the Judge ruled that HDC would ONLY be allowed to try new Open Door Law claims. I note, these were claims that HDC had originally raised only weeks before the first trial. It is also important to note that, this decision was made as part of the Court’s ruling on the City’s Motion for Partial Summary Judgment. During that same ruling, the Judge also found that HDC DID NOT follow Open Door Law procedures itself, THEREFORE HDC WAS NOT ENTITLED to recover attorneys’ fees – a point of contention that HDC refused to concede despite the Judge’s ruling.

In July, 2013, the parties entered brief settlement discussions. HDC offered to settle the litigation, but demanded terms that the City and this Utility Service Board found to be unreasonable. Some of these terms included admission by the City to Open Door Law violations; admission by the City of potential harmful health effects of the Jasper Clean Energy project; abandonment of the Jasper Clean Energy Project, and payment, by the City of HDC’s legal fees and expenses. The City and this Utility Service Board rejected the terms proposed by HDC, but provided a counter-offer which included the following terms:

- Mutual dismissal of lawsuit
- Each party to pay their own fees

HDC rejected the City’s counter-offer.

HDC recently approached the City again to reopen settlement discussions. In its proposal, HDC demanded that the City reimburse its legal fees in the amount of nearly ¼ Million Dollars. Both the Common Council and the Utility Service Board rejected those terms during a publicly held special meeting. However, both groups authorized further settlement discussions take place. Thereafter, several passes at attempted settlement terms occurred among legal counsel. On Wednesday, January 15, HDC’s legal counsel advised the City that HDC would be willing to settle the litigation as follows:

- mutual dismissal of the litigation
- each side pay their own legal fees

These terms should look familiar...for these are the City’s exact and original settlement terms authorized in August, 2013.

It is important to note, that if you vote to approve the settlement terms as presented, there will be NO ADMISSION to any violation, by the City or the Utility Service Board, of Indiana's Open Door Law."

Chairman Wayne Schuetter then read aloud the following statement he prepared.

"The taxpayers and ratepayers of Jasper have had to spend approximately \$600,000 in legal fees over the last two and a half years and they have foregone \$480,000 in lease payments, to defend the process by which the City reached its lease agreement with Jasper Clean Energy, to convert the city-owned coal-fired power plant into a natural gas and miscanthus grass-fired power plant.

During this process, the City has always remained steadfast in its position. The City did not violate any Open Door Laws. The lease process was very open and very transparent. To date, no evidence has been presented to dispute that position. This, despite the volumes of documents provided by the City to HDC – documents that cost City employees and legal counsel hundreds of hours of work. In fact, the City undertook significant efforts during the time the Lease was being negotiated to keep the public involved and informed about the process. The City had public meetings, Public hearings, Public Forums and even Private meetings with concerned citizens. Representatives of this Board also attended meetings that were put on by Healthy Dubois County. In addition, the City provided Press releases and Posted information and the Lease, itself, on the city's website. Finally, the City made its expert consultants available at public forums for questioning and published its consultants' reports to better inform the public.

HDC has, by its own admission, pursued this litigation for the sole purpose of delaying the Jasper Clean Energy project.

The Jasper Clean Energy Project would now be free to move forward, to provide the citizens of Jasper with the clean, green energy they were promised when we negotiated the lease and the lease was signed in 2011."

Chairman Schuetter then asked for a motion on the proposed settlement terms.

Ken Sendelweck made a motion to accept the terms of the settlement offer as presented with mutual dismissal of all claims by each party, along with payment by each party of their own fees, and the acknowledgement that this settlement offer is the same offer that the City offered last August. Alex Emmons seconded the motion. Motion approved, 7-0.

MUTUAL AID TO WASHINGTON, INDIANA (DVD-19:51)

Jerry Schitter reminded the Board that a couple of months ago the Electric Department assisted the City of Washington during an outage caused by tornado damage. The City of Washington has been denied any reimbursement from the State to help pay for those damages. Schitter stated that the bill for these services is approximately \$5,200. Schitter also stated, that in the past, the hours of service have been billed to the City receiving the mutual aid, if not covered by the State.

Alex Emmons made a motion to bill the City of Washington for approximately \$5,200 for assistance during the aftermath of the tornado. Doug Schulte seconded the motion. Motion approved, 7-0.

IMPA & ENERGIZING INDIANA STATUS (DVD-21:24)

Schitter informed the Board that IMPA is no longer associated with Energizing Indiana. The IMPA Board feels that they can spend money more efficiently than Energizing Indiana was offering. IMPA will be coming out with their own energy efficiency program more suitable for municipalities sometime next month. An IMPA representative will be making a presentation on the new program to the Board sometime in the near future.

IMEA SAFETY DUES FOR 2014 (DVD-22:50)

Schitter informed the Board that the 2014 IMEA safety membership dues need to be renewed. Last year's dues were \$4,879.56. This year there was a slight decrease of \$152.20, due to the recalculating of the fees of small utilities verses the larger utilities. The 2014 IMEA membership dues are \$4,727.36. IMEA provides safety meetings throughout the year. Being members provides discounts for apprentice schooling and safety training programs. At this time we have two apprentices in the schooling program.

Ken Sendelweck made a motion to approve paying the 2014 IMEA membership safety dues in the amount of \$4,727.36. Dave Hurst seconded the motion. Motion approved, 7-0.

PERMISSION TO REPLACE SUBSTATION FOREMAN – JIM STALLMAN RETIRING (DVD-24:40)

Schitter informed the Board that Jim Stallman will be retiring on February 21st after 45 years of service with the City Electric Department. Jim has been a substation foreman for the last 43 years. He is very knowledgeable and will be greatly missed.

Schitter asked for the Boards permission to begin the hiring process for a new substation foreman. Schitter plans to hire internally for the foreman position and then look for a new technician.

Rick Stradtner made a motion to give Schitter permission to begin the process of hiring a new substation foreman, due to the retirement of Jim Stallman. Doug Schulte seconded the motion. Motion approved, 7-0.

Chairman Wayne Schuetter also thanked Jim Stallman, on behalf of the Board, for his 45 years of service with the Electric Department. He will be hard to replace.

JASPER CLEAN ENERGY MONTHLY REPORT (DVD-26:23)

Bud Hauersperger explained the Jasper Clean Energy monthly report for December to the Board. Hauersperger stated that there had been no changes in the report from last month.

Hauersperger did state that he received a very informative white paper from Jay Catasein on CNG (Compressed Natural Gas). Hauersperger did pass along the report to Kellie Walsh with Greater Indiana Clean Cities Coalition. Walsh will be at VUJC on January 31st doing a presentation on compressed natural gas.

ELECTRIC PLANNING COMMITTEE REPORT (DVD-27:59)

Ken Sendelweck, Chairman of the Electric Planning Committee, stated the committee did not meet during the past month.

APPROVAL OF ANNUAL SERVICE AGREEMENT WITH CORRPRO (DVD-28:07)

Hinkle asked for the Board's permission to continue the annual service agreement for 2014 with Corrpro for the cathodic protection system in the water storage tank clarifier. The price is the same as 2013.

Keith Masterson made a motion to approve the annual service agreement with Corrpro for 2014. Dave Hurst seconded the motion. Motion approved, 7-0.

UPDATE ON 3RD AVE. WATER MAIN REPLACEMENT PROJECT (DVD-29:16)

Derick Wiggins, with Midwestern Engineers, informed the Board that the 3rd Avenue Water Main Replacement project was going well and there are no issues with the quality of work. Work progress has been slow due to the time of year and the cold weather. They have also encountered a lot of rock, which has also slowed work progress.

The new 12" water main is live up to about 1,700 feet from the beginning. Pressure and bacteria tests have been passed. Some service meters have been reconnected. As of today, 3,800 feet of 12" water main has been installed overall, up to about the K-mart area. The project is about 55 to 60% complete today.

Wiggins recommends payment to Infrastructure Systems Inc. (ISI) for the two payment requests. Wiggins stated that a 30-day time extension request was received today from ISI due to the weather and rock. Current contract time for substantial completion was February 9th. If the 30-day extension request is granted, substantial completion will be March 11th. Wiggins recommends the 30-day extension. Wiggins informed the Board that there will be additional inspection costs from Midwestern Engineers due to the 30-day extension. Wiggins will bring the additional costs before the Board at a later date.

Keith Masterson made a motion to approve the 30-day time extension request from ISI per final approval from Attorney Kabrick upon reviewing. Rick Stradtner seconded the motion. Motion approved, 7-0.

ISI EMPLOYEES (DVD- 34:25)

Ernie Hinkle informed the Board that ISI has done a very good job communicating with the City while working on the 3rd Avenue Water project.

Hinkle read aloud a thank you note that was sent to ISI while working on the project. The note thanked ISI employees for paying respect for a local funeral procession that passed through 3rd Avenue in December. Hinkle thanked ISI for the respect their employees demonstrated. ISI stated that this is a company policy.

Chairman Schuetter, along with Hinkle, encouraged all Utility Departments to follow the same policy ISI demonstrated regarding funeral processions.

GAS PLANNING COMMITTEE REPORT (DVD-36:40)

Keith Masterson, Chairman of the Gas Planning Committee, stated the committee did not meet during the past month.

WATER PLANNING COMMITTEE REPORT (DVD-36:47)

Dave Hurst, Chairman of the Water Planning Committee, stated the committee did not meet during the past month.

BAR SCREEN (DVD-37:10)

Ed Hollinden informed the Board that last Wednesday the bar screen upgrade was completed. Hollinden stated that they went from a 1" bar screen to a 3/8" bar screen. In the past few days different debris has been collected due to the upgraded screen.

WASTEWATER PLANNING COMMITTEE REPORT (DVD-39:13)

Alex Emmons, Chairman of the Wastewater Planning Committee, stated the committee did not meet during the past month.

FINANCE COMMITTEE REPORT & PRESENTATION OF CLAIM DOCKET (DVD-39:28)

Doug Schulte reported the Finance Committee had met and reviewed the claims on the Claim Docket.

The Finance Committee recommended approval of the claims as presented.

Dave Hurst made a motion to approve the claims as presented. Keith Masterson seconded the motion. Motion approved, 7-0.

CHAIRMAN SCHUETTER STATEMENT (DVD-48:07)

Chairman Schuetter said he had a statement he would like to read into the record and asked for a motion to do so.

Ken Sendelweck made a motion to give Chairman Schuetter permission to read aloud his prepared statement for the record on behalf of the Utility Service Board. Rick Stradtner seconded the motion. Motion approved, 7-0.

Chairman Schuetter then read aloud his prepared statement.

"2014 marks the 110th anniversary of the municipal operation of the Electric and Water Utilities in Jasper. Approximately 10 years before this formal organization of the two utilities Jasper's Board of Trustees approved the introduction of electricity into the city.

Throughout these 110 years the utilities have gone through many changes including the addition of the wastewater and gas distribution utilities. The Town Council and City Council oversaw the utilities from 1904 until 1955 when a separate Utilities Board was established.

A great number of Jasper Citizens have given of their time and energy to oversee and direct the Jasper Utilities. Their sense of civic responsibility and commitment has shaped the Jasper utilities into the reliable, consistent, and cost effective departments that serve our community today.

Over the course of these 110 years, those overseeing the utilities established a tradition of progressive and forward-thinking analysis that was always coupled with a fiscally conservative ethos and cautious examination of the impacts of any decisions.

In 1895 the first water reservoir on Reiders Hill was built. For the last twenty years we have been capturing methane gas and using it for cogeneration purposes at the waste water treatment plant. In 1896 electric lighting was introduced in the city, and we continue to examine forms of alternative energy for the future of our city. The tradition begun so many years ago continues.

In this tradition of progress, five years ago Mr. Hauersperger began discussing conversion of the City's coal-fired power plant into an alternative fueled plant. This process was endorsed by then Mayor Schmitt, the City Council, and the Utility Service Board. The three-year-long process led to the signing of a lease with Jasper Clean Energy that is in the best long-term interests of the citizens of Jasper. We engaged the public in the most transparent, protracted discussions I can remember for a public works project in this City.

Those discussions and the negotiation process lead to a lease agreement that includes a gauntlet of conditions to insure that the Jasper Clean Energy center will be developed and operated following the standards that the Jasper Utilities is known for.

Jasper continues to discuss and investigate new, more environmentally sound energy strategies. The City is investigating solar energy, alternative energy vehicles and we are looking toward more sustainability and self-sufficiency through programs to reduce demand for energy along with the inclusion of alternative energy. These ideas have received support from Mayor Seitz, the current City Council and the Utility Service Board.

Jasper has a reputation of being a clean city. The Jasper Clean Energy Center could be the foundation for Jasper to become known as a self-sustaining, self-sufficient, green city as well. The lease agreement for the development of the Jasper Clean Energy Center may give the City of Jasper the revenue to pursue these goals without having to rely solely on ratepayers.

The past 110 years have seen a great deal of progress in the Jasper utilities because of the leadership, effort and commitment of countless people. The ratepayers and taxpayers of Jasper can be assured that this board will continue the traditions that these individuals have passed on to us as we move forward with this project and others.”

There being no further business to come before the Board, the meeting was adjourned at 7:44PM upon motion by Alex Emmons and second by Doug Schulte. Motion approved, 7-0.

The minutes were hereby approved _____ with X without corrections this _____ day of _____, 2014.

Attest: _____
Secretary

_____ Chairman